

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FILED

JAN - 8 2020

CLERK, U.S. DISTRICT COURT
NORFOLK, VA

MARQUEZ LEVELLE LEWIS, #1142595,

Petitioner,

v.

ACTION NO. 2:19cv134

HAROLD W. CLARKE,
Director Virginia Department of Corrections,

Respondent.

FINAL ORDER

Petitioner Marquez Levelle Lewis (“Lewis”), a Virginia inmate, has submitted a *pro se* petition pursuant to 28 U.S.C. § 2254. ECF No. 1. Lewis alleges his federal rights were violated when he was convicted in the Circuit Court for Henrico County of three counts of robbery, three counts of use of a firearm in the commission of a felony, and possession of a firearm by a convicted felon. *Id.* at 1. As a result of these convictions, Lewis was sentenced on March 19, 2003, to 143 years in prison with 123 years suspended. *Id.*

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Local Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed December 6, 2019, recommends that respondent’s motion to dismiss, ECF No. 11, be granted, and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed with prejudice. ECF No. 16.

Lewis was advised of his right to file written objections to the findings and recommendations made by the magistrate judge. The Court has received no objections to the

report and recommendation, and the time for filing objections has expired.

The Court does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. It is, therefore, **ORDERED** that respondent's motion to dismiss, ECF No. 11, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of respondent.

Finding that the basis for dismissal of Lewis' section 2254 petition is not debatable, and alternatively finding that Lewis has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Lewis is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Lewis intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Final Order. Lewis may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.**

The Clerk shall mail a copy of this Final Order to Lewis and counsel of record for respondent.

[Signature]

Robert G. Doumar
Senior United States District Judge

Robert G. Doumar
United States District Judge

Norfolk, Virginia
January 8, 2020